

# **WASHINGTON STATE METHODS OF ADMINISTRATION**

## **Workforce Investment Act (WIA)**

Christine Gregoire, Governor  
State of Washington

Employment Security Department  
Karen Lee, Commissioner

and WIA Partners

Certification - October 4, 2001  
Recertification - November 20, 2003

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U.S. Department of Labor

Office of the Assistant Secretary  
for Administration and Management  
Washington, D.C. 20210

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OCT 23 2001

Employment Security  
HRM Branch



October 17, 2001

The Honorable Gary Locke  
Governor  
State of Washington  
Legislative Building  
Olympia, Washington 98504-0002

Dear Governor Locke:

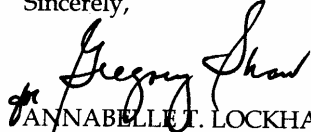
This is to advise you of the findings of the U.S. Department of Labor Civil Right's Center's review of the State of Washington's equal opportunity Methods of Administration (MOA) under the Workforce Investment Act (WIA). The Washington Employment Commission submitted the State of Washington's WIA MOA, and in addition to WIA, the document also covers Wagner-Peyser Act, and Unemployment Insurance Services programs and activities. The MOA was submitted pursuant to the regulatory requirements that each Governor develop and implement a MOA consistent with the requirements of 29 CFR Part 37. The purpose of the MOA is to ensure the State has established policies, procedures and systems in the administration, management and operation of the programs that provide a reasonable guarantee of compliance with Federal nondiscrimination and equal opportunity laws and requirements.

Based upon the review of the MOA, the Civil Rights Center finds that the MOA submitted by the Washington Employment Commission includes narrative descriptions and supporting documentation that gives a reasonable guarantee of compliance with the nondiscrimination and equal opportunity provision of 29 CFR Part 37, if successfully implemented. This finding is based solely upon the review of the MOA submitted, pursuant to §37.54 (a)(2), and is given without benefit of any on-site examinations.

Please be advised that CRC may periodically review the adequacy of your State's performance under the MOA for compliance with the requirements of 29 CFR Part 37 and related Federal laws and regulations. Nothing in this letter limits or precludes the CRC from monitoring directly the State of Washington's programs, or any of it's recipients, or from investigating any matter necessary to determine any recipient's compliance with all applicable nondiscrimination and equal opportunity provisions.

Congratulations on this achievement! The CRC extends its assistance in the implementation of the WIA MOA. Mr. James Forrester is the Team Leader assigned to your State. Please feel free to call upon Mr. Forrester, if the need arises, for any technical assistance. He can be reached at (202) 219-7026.

Sincerely,

  
ANNABELLE T. LOCKHART  
Director  
Civil Rights Center

cc: Ms. Evelyn Rodriguez, EO Officer, Washington  
Employment Commissioner

Michael Brauser, Regional Administrator, U.S. Department of Labor,  
Employment and Training Administration

U.S. Department of Labor

Office of the Assistant Secretary  
for Administration and Management  
Washington, D.C. 20210



NOV 20 2003

The Honorable Gary Locke  
Governor  
State of Washington  
P.O.Box 40002  
Olympia, WA 98504-0002

Dear Governor Locke:

This is to advise you of the finding of the U.S. Department of Labor Civil Rights Center's (CRC) review of the State of Washington's equal opportunity Methods of Administration (MOA) re-certification under the Workforce Investment Act (WIA).

The WIA nondiscrimination regulations, at 29 CFR Part 37.55(c), requires that every two years each Governor review their MOA and the manner implemented to determine whether any changes are necessary to fully and effectively comply with the WIA nondiscrimination and equal opportunity requirements. If changes are necessary, they are to be submitted in writing to the CRC Director. If no changes are necessary, the Governor is to so certify in writing to the CRC Director. The WIA nondiscrimination regulations, which are interim final regulations, trigger the two-year re-certification from the date of initial submission of the WIA MOA. These regulations are not yet final and it is the decision of the CRC Director to activate the two-year re-certification date from the date of initial MOA approval, rather than initial MOA submission. After reauthorization of WIA, new proposed final regulations will be issued and this requirement will be revised accordingly.


Based upon the review of the changes to the MOA, the Civil Rights Center finds that the amendments and updates do not alter the decision on the initial MOA approval. Accordingly, the CRC finds that the MOA gives a reasonable guarantee of compliance with the nondiscrimination and equal opportunity provision of 29 CFR Part 37, if successfully implemented. This finding is based solely upon the review of the MOA and subsequent changes, and is given without benefit of an on-site examination.

Please be advised that the CRC may periodically review the adequacy of your State's performance under the MOA for compliance with the requirements of 29 CFR Part 37 and related Federal laws and regulations. Nothing in this letter limits or precludes the CRC from monitoring directly the State of Washington's programs, or any of its recipients, or from investigating any matter necessary to determine any recipient's compliance with all applicable nondiscrimination and equal opportunity provisions.

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Employment Section

The purpose of the MOA is to ensure the State has established policies, procedures, and systems in the administration, management, and operation of programs that provide a reasonable guarantee of compliance with Federal nondiscrimination and equal opportunity laws and requirements. Congratulations on the re-certification of your MOA.

Sincerely,



ANNABELLE T. LOCKHART  
Director  
Civil Rights Center

cc: Mr. John Humphrey, Regional Administrator, U.S. Department of Labor,  
Employment and Training Administration

Dr. Sylvia Mundy, Commissioner, Washington Employment Security Department

Ms. Evelyn Rodriguez, Equal Opportunity Officer, Washington Employment  
Security Commission

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# ELEMENT ONE

## DESIGNATION OF STATE- AND LOCAL-LEVEL EQUAL OPPORTUNITY OFFICERS (29 CFR 37.54(d)(1)(ii))

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.23 through 37.28. In summary, any individual appointed as EO Officer should have the skill, ability, knowledge and authority to properly oversee and direct the EO program to which that individual has been assigned.*

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**T**he Governor of Washington State has designated the Employment Security Department (ESD) to administer the implementation of the nondiscrimination and equal opportunity (EO) provisions of the Workforce Investment Act (WIA) of 1998.

The Nondiscrimination and Equal Opportunity provisions contained in 29 CFR 37.23 require that all recipients, except those which are small entities or service providers, designate EO Officers. This requirement also sets forth clear direction on who can serve as EO Officers and what their responsibilities are.

The Commissioner of the Employment Security Department has ultimate responsibility for administration of the Equal Opportunity Program in the department and, on behalf of the Governor, ensures that both the department and the Workforce Investment Act partners comply with the provisions contained in these regulations. The ESD Commissioner reports EO matters directly to the Governor.

### **Background: WorkSource Washington**

WorkSource Washington is Washington State's WIA Title I one-stop service delivery system. It provides a comprehensive and integrated interface that allows both employers and job seekers easier access to workforce services and information through WorkSource Centers and affiliate sites.

WorkSource Washington consists of twelve (12) geographic workforce development areas (WDAs). Each of the WDAs is headed by a Workforce Development Council (WDC), also known as the Local Workforce Investment Act Board (LWIAB): Olympic Consortium, Pacific Mountain WDC, Northwest WDC, Snohomish County WDC, Seattle-King County WDC, Pierce County WDC, Southwest Washington WDC, North Central Washington/Columbia Basin WDC, Tri-County WDC, Eastern Washington Partnership WDC, Benton-Franklin WDC, and Spokane WDC. For purposes of this





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document, the local area board will be referred to as "Workforce Development Council (WDC)." Attachment 1C provides a list of the WDCs and their addresses, the names of the directors, and the counties served by each.

In 1999 Governor Gary Locke issued Executive Order No. 99-02, in compliance with WIA requirements. Section 1 of the Executive Order directs that: *"The Workforce Board shall act as the Workforce Investment Board for purposes of the federal WIA of 1998."* See Attachment 1D.

In accordance with RCW 28C.18.020, the Workforce Investment Board consists of nine voting members. Each of these board members is appointed by the Governor, with the Senate's consent, and consists of three representatives from each of the following sectors: business, labor, and state government (specifically, the Superintendent of Public Instruction, the Executive Director of the State Board for Community and Technical Colleges and the Commissioner of the Employment Security Department). There are also two non-voting participants: the Board Chair, who represents the Governor, and one other individual appointed by the chair to represent racial and ethnic minorities, women and people with disabilities. The Board and the twelve WDCs work in partnership in planning and developing the state-unified plan, which was designed to meet WIA implementation requirements.

### **EO Officer Designation at State Level**

**M**s. Evelyn Rodriguez, EO/Human Resources (HR) Consulting Services Administrator in Human Resources, is designated as the department's State Equal Opportunity Officer. Ms. Rodriguez has oversight responsibility for coordinating, implementing, maintaining and monitoring the nondiscrimination and equal opportunity requirements under the U.S. Department of Labor Federal Regulations, 29 CFR Part 37, relative to WIA services. In addition, Ms. Rodriguez has lead responsibility for the department's human resources consulting and employee relations programs.

Ms. Rodriguez reports to Nikki Barnard, Director, Human Resources Management. On matters related to EO and nondiscrimination, Ms. Rodriguez has direct access to the Commissioner, Karen Lee, or the Deputy Commissioner, Paul Trause.

Ms. Rodriguez regularly informs the Commissioner and Deputy Commissioner of the status of complaints through monthly reports. As needed, Ms. Rodriguez informs the Commissioner or Deputy Commissioner of EO issues by e-mail, phone or personal appointment.

Ms. Rodriguez' current position description does not include duties and responsibilities that would constitute or appear to constitute a conflict of interest. If instances arise where the appearance of a conflict is presented, the Human Resources Management



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Director will assign the duties to other staff or contract the work out to an independent investigator. Examples of potential conflicts of interest include complaints by HR staff members, complaints regarding applicants for positions in HR, and complaints about personnel selections in which the State EO Officer or HR Director was involved in the selection process.

Ms. Rodriguez' position description reflects duties that ensure Washington State complies with Section 188 of WIA and 29 CFR Part 37. Her duties include the following:

- Coordinating state EO responsibilities under 29 CFR Part 37.
- Serving as the state's liaison with the Civil Rights Center.
- Providing technical guidance to local-level EO Officers statewide to ensure compliance with federal and state Department of Labor/Civil Rights Center (DOL/CRC) regulations, and other applicable regulations, policies, procedures, and directives.
- Monitoring and investigating the recipients' activities, and the entities that receive WIA Title I funds from the recipient, in order to ensure compliance with nondiscrimination and EO WIA requirements.

Ms. Rodriguez has over seventeen years of EO and other related program experience and has served as the department's EO Administrator and EO Officer in the past. Ms. Rodriguez' experience, as well as her extensive related training, has provided her with a strong background in the areas needed to successfully carry out her assigned duties as the State EO Officer. She has a Bachelor of Arts degree in Business Administration.

CRC will be promptly notified if the designation of the State EO Officer changes.

Additional resources in support of Ms. Rodriguez are as follows:

- Mr. Kintu Nnambi was appointed to the position of ESD EO Officer in September 2002 and reports to Ms. Rodriguez.

With regard to WIA Title I, Mr. Nnambi's EO duties are:

- Log and oversee all WIA Title I discrimination complaints at the state level.
- Investigate EO complaints by ESD employees.
- Notify complainant of receipt of the complaint, determine jurisdiction, offer rights to complainant, and assign mediation, if necessary.
- Provide training to local EO Officers on their WIA Title I EO duties to ensure compliance with nondiscriminatory and EO WIA requirements.



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- Provide consultation to ESD and local partners, as required, regarding reasonable accommodations.
- Provide statewide monitoring and oversight on EO compliance under WIA Title I.
- Update the state MOA as required.

Other duties assigned to the ESD EO Officer include:

- Prepare and update the department's state-required affirmative action plan.
  - Develop and update departmental civil rights policies (e.g., nondiscrimination, harassment, etc.).
  - Provide training to ESD staff on departmental civil rights policies, sexual and other harassment issues.
  - Provide consultation to ESD staff on equal opportunity in recruiting and other aspects of employment, reasonable accommodations, non-WIA discrimination issues and complaints, etc.
  - Provide consultation on inquiries from or charges filed with the U.S. Department of Labor/Civil Rights Center and other federal and state civil rights agencies, responding on behalf of ESD to complaints filed with those agencies.
- Other Human Resource Consultants provide support, when requested, in developing automated reports and analyses of data. In addition, the following Washington Management Service Managers will mediate state-level EO complaints, as needed: Pat Iyall Barnes and Carol Rembaugh. See Attachments 1A-1 – 1A-2 for job descriptions and training profiles.
  - Administrative Support: Ms. Rodriguez receives administrative support from an Administrative Assistant shared with the Director, Human Resources Management. The ESD EO Officer position receives administrative support from a Secretary Senior shared with other consulting staff. (Attachments 1B-4 and 1B-5)
  - Program Support: The Employment and Training Division administers WIA Title I. Lisa Morgan is assigned EO oversight from the program office perspective. With regard to WIA Title I EO responsibilities, Ms. Morgan coordinates and refers the EO discrimination complaints to the State EO Officer. In addition, she logs and refers the receipt of program complaints to the appropriate WDC, and provides technical assistance, as appropriate. Ms. Morgan reports all EO matters to Ms. Rodriguez. (Attachment 1B-8)



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- UI Policy Unit EO Coordinator: The Language Specialist for the Unemployment Insurance (UI) Division coordinates the reporting of all EO and nondiscriminatory matters directly to the State EO Officer. The UI Policy Unit has established a three-member team to review and interpret the EO report. (Attachment 1B-9)

This structure suits ESD business and organizational needs for equal opportunity, affirmative action and accessibility monitoring, education, complaint and dispute resolution by designating a higher-level officer of the agency, with direct access to the Commissioner and Deputy Commissioner, accountable for equal opportunity in agency services and employment practices. This reflects the State of Washington's firm commitment to ensuring accessibility and nondiscrimination in all client services provided under the Workforce Investment Act and all agency employment practices for its own staff.

Attachments 1B-1 – 1B-8 include the department's organizational chart; a job description for the department and partners' State EO Officer and the newly established ESD EO Officer position; WIA EO Program Officer duties and the respective organizational charts; other EO staff duties, budget, and the percent of time devoted to handling EO activities. Their names, telephone numbers, mail and e-mail addresses, and TDD numbers are included. In addition, a training profile for each individual is included. Attachment 1B-9 provides a job description for the UI Policy Unit EO Coordinator, as well as an organizational chart.

### **EO Officer Designation at Local Level**

In compliance with the nondiscrimination requirements for the MOA, each WDC has a designated local EO Officer: Bob Potter, The Olympic Consortium; Lu Jewell, Pacific Mountain WDC; Dan Vogel, Northwest WDC; Debbie Little, Snohomish County WDC; Suzanne Ramage, Seattle-King County WDC; Robin Barry, Pierce County WDC; Pat Bredeson, Southwest Washington WDC; Dave Petersen, North Central Washington/Columbia Basic WDC; Terie Dohrman, Tri-County WDC; Josie Darst, Eastern Washington Partnership WDC; Michelle Mann, Benton-Franklin WDC; and John Baumhofer, Spokane WDC. Attachments 1E-1 – 1E-12 include the names of the designated EO Officers, job descriptions, and percentage of time committed to EO matters (also outlined in the table below). Washington State is addressing, through an evaluation process, designations of EO Officers, potential conflicts of interest and accountability on a case-by-case basis. It continues to be reviewed through the monitoring process by the State/ESD EO Officer.



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Local EO Officers are responsible for, but are not limited to:

- Monitoring and investigating the local area's activities, and the activities of their recipients who receive WIA Title I funds to ensure compliance with the nondiscrimination and EO obligations under WIA and 29 CFR Part 37.
- Reviewing written policies to ensure that they are nondiscriminatory.
- Developing and publishing procedures for processing discrimination complaints and ensuring adherence to the procedures; promulgating administrative regulations as necessary.
- Coordinating local-level WIA EO responsibilities to include ensuring service providers' compliance with the nondiscrimination and EO provisions of WIA.

The percentage of time each local-level EO Officer spends on EO-related matters is referenced in the table below:

<b>WDA</b>	<b>Workforce Development Council</b>	<b>EO Officer</b>	<b>% of Time on EO Matters</b>
I.	The Olympic Consortium	Bob Potter	10%
II.	Pacific Mountain WDC	Lu Jewell	10%
III.	Northwest WDC	Dan Vogel	10 – 25%
IV.	Snohomish County WDC	Debbie Little	20%
V.	Seattle-King County WDC	Suzanne Ramage	30%
VI.	Tacoma/Pierce County Employment & Training	Stuart Peterson	30%
VII.	Southwest Washington WDC	Pat Bredeson	15%
VIII.	North Central Washington/ Columbia Basin WDC	Dave Petersen	35%
IX.	Tri-County WDC	Terie Dohrman	25%
X.	Eastern Washington Partnership WDC	Josie Darst	25%
XI.	Benton-Franklin WDC	Michelle Mann	5%
XII.	Spokane WDC Administration	John Baumhofer	10%

Sixty-nine (69) WorkSource Centers and affiliate sites are located within the twelve WDAs. All offices refer EO-related matters to their local WDC-designated EO Officer. This ensures nondiscrimination and accessibility in services provided to WorkSource clients. Each WDC will develop a policy to administer this requirement. See Attachment 1F for a list of the WorkSource Offices and affiliate sites.

CRC will be promptly notified of any changes in local EO Officers.



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### Resources and Training

Attachment 1G provides a sample of letters, dated October 26, 2000, sent to the twelve (12) WDCs and to Chris Webster, ESD WIA Manager at that time, regarding identification of individuals designated as the local EO Officers. Holly Watson is currently the ESD WIA Program Manager; she, along with her staff, works closely with the State/ESD EO Officer and the WDCs to ensure nondiscrimination and EO compliance for Title I WIA Section 188 and 29 CFR Part 37. Attachment 1H identifies the local EO Officers, along with their position titles, job descriptions, telephone numbers, mail and e-mail addresses, and TDD numbers. As indicated in "EO Officer Designation at Local Level" above, job descriptions and organizational charts for each of these staff members are included in Attachments 1E-1 – 1E-12.

The *Equal Opportunity is the Law* posters have been distributed to the local WDCs and partner offices. The posters, which are placed in prominent locations for public viewing, provide all applicants, registrants, eligible applicants/registrants, participants, employees, and applicants for employment, as well as interested members of the public, with the identity of the applicable local EO Officer and State EO Officer, as well as their e-mail and business addresses, and telephone numbers (including TDD). In response to comments received from CRC regarding these posters, the State EO Officer notified all twelve EO Officers that a larger font size was needed on the posters. Labels with a larger font size were sent to all WDCs. See Attachment 2I-1 in Element 2 for a copy of the *Equal Opportunity is the Law* poster.

Each EO Officer was carefully selected to ensure the best possible candidate was identified. The State EO Officer and department staff are proactive in providing local EO Officers information in identifying and meeting training needs. (Attachment 2O/Element 2) A matrix/list of the training on nondiscrimination and EO, along with other skills training for staff, is included in Attachment 2P/Element 2. Attachment 2R in Element 2 provides sample agendas of training conducted in 2000 for staff and partners regarding the WIA regulations.

Additionally, on June 19, 2001, EO officers, WorkSource Administrators and other partner staff participated in a WIA/EO MOA Orientation, which provided a high-level overview of the nondiscrimination and EO requirements of the WIA regulations. (Attachment 1I) A three-day WIA/EO MOA Training Conference was held December 11 – 13, 2001. The focus was on ensuring that individuals with a critical role in the provision of services understand requirements in the EO regulations. Additionally, the conference helped to ensure that those responsible for developing training have the necessary tools and applications to address the EO and nondiscrimination requirements. Attachment 1J provides a copy of the agenda. CRC Staff provided technical assistance and participated in the conference.





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During the next two years the State EO Officer spent considerable time providing training to ESD staff (including TeleCenter staff) and WorkSource partner staff on elements of the MOA. This effort helped to ensure that local service delivery staff understood the nondiscrimination and EO requirements and that they were providing services to comply with these laws and regulations.

Currently, EO training is presented on a periodic basis or when requested. Further, the State/ESD EO Officer provide periodic EO informational updates and notices of EO-related training sponsored by other sources, such as the annual CRC/National Association of State Workforce Agencies EO Training Conference. The State/ESD EO Officer also provide EO technical assistance to the local-level EO Officers on an ongoing basis.



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## Documentation

### Attachments for Element One

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- 1A 1-Job Description and Training Profile for Pat Iyall Barnes  
2-Job Description and Training Profile for Carol Rembaugh
- 1B 1-ESD Organizational Charts  
2-Job Description and Training Profile for Evelyn Rodriguez, State EO Officer  
3-Job Description for the Kintu Nnamdi, ESD EO Officer  
4-Job Description and Training Profile for Mary Mendoza  
(Administrative Assistant 5)  
5-Job Description and Training Profile for Wilfried Leiste (Secretary Senior)  
6- State Addresses and Phone Numbers  
7- Budget  
8-Job Description and Organizational Charts for Lisa Morgan  
9-Job Description and Organizational Chart for the EO Coordinator – Spanish  
Language Translation Specialist/UI Division
- 1C Workforce Development Council List
- 1D Governor's Executive Order No. 99-02
- 1E 1-Job Description, Percentage of Time, Support Staff & Organizational Chart for  
Bob Potter  
2-Job Description, Percentage of Time, Support Staff & Organizational Chart for  
Lu Jewell  
3-Job Description, Percentage of Time, Support Staff & Organizational Chart for  
Dan Vogel  
4-Job Description, Percentage of Time, Support Staff & Organizational Chart for  
Debbie Little  
5-Job Description, Percentage of Time, Support Staff & Organizational Chart for  
Suzanne Ramage  
6-Job Description, Percentage of Time, Support Staff & Organizational Chart for  
Robin Barry  
7-Job Description, Percentage of Time, Support Staff & Organizational Chart for  
Pat Bredeson





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## Documentation

### Attachments for Element One - Continued

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- 8-Job Description, Percentage of Time, Support Staff & Organizational Chart for Dave Petersen
- 9-Job Description, Percentage of Time, Support Staff & Organizational Chart for Terie Dohrman
- 10-Job Description, Percentage of Time, Support Staff & Organizational Chart for Josie Darst
- 11-Job Description, Percentage of Time, Support Staff & Organizational Chart for Michelle Mann
- 12-Job Description, Percentage of Time, Support Staff & Organizational Chart for John Baumhofer

1F List of WorkSource Offices

1G October 26, 2000 Letters to WDCs and ESD WIA Manager

1H List of WDC EO Officers

1I WIA/EO MOA June 2001 Orientation

1J WIA/EO MOA Training Conference in October (Postponed) – Rescheduled in December



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## ELEMENT TWO

### NOTICE AND COMMUNICATION

(29 CFR 37.54(d)(1)(iii))

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.29 through 37.36. States should ensure the establishment of a notice and communication system that makes all registrants, applicants, eligible applicants/registrants, applicants for employment, employees and interested members of the public aware of both the recipient's obligation to operate its programs and activities in a nondiscriminatory manner, and the extent of the rights of members of these groups to file complaints of discrimination.*

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#### **Background**

**T**he State of Washington is committed to providing EO and ensuring nondiscrimination in employment in the provision of services. The Revised Code of Washington (RCW) 49.60, the Washington State Law Against Discrimination, prohibits discrimination on the basis of age, sex, marital status, race, creed, color, national origin, families with children, presence of any physical, sensory or mental disability, and use of a trained dog or service animal by a person with a disability. (Attachment 2A)

In addition, the following Executive Orders and Directives were issued:

- Executive Order No. 93-07 Affirming Commitment to Diversity and Equity in Service Delivery and In the Communities of the State, Re-establishing Affirmative Action and Prohibiting Discrimination in State Workplaces (Attachment 2B). Also attached is the ESD Diversity Plan and update. (Attachments 2C-1 and 2C-2)
- Executive Order No. 89-01 Sexual Harassment (Attachment 2D)
- Executive Order No. 96-04 Implementing the Americans with Disabilities Act (Attachment 2E)
- Governor's Directive No. 98-01 Implementation of Initiative Measure 200 (Attachment 2F)



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In 1998 Washington State voters approved the passage of Initiative 200, which supports equal opportunity but forbids any type of hiring quota or preferential treatment for members of protected groups. The statute does not impede Washington's ability to comply with federal nondiscrimination provisions or requirements.

### **Communication and Notification**

Within the WorkSource Washington System, the Employment Security Department and its partner organizations' employees, as well as clients, unions, the public and professional organizations, have been informed of the nondiscrimination and equal opportunity requirements in WIA. A copy of WIA Policy Number 3445 on Nondiscrimination and Equal Opportunity has been distributed to all WDC Directors. (Attachment 2G) All ESD employees have also been provided with a copy of the department's Equal Opportunity/Affirmative Action Policy Number 0021. (Attachment 2H)

The Employment Security Department's Nondiscrimination and Equal Opportunity Policy incorporates the following laws and regulations:

- ◆ Title VI and Title VII of the 1964 Civil Rights Act, as amended;
- ◆ Section 504 of the Rehabilitation Act of 1973, as amended;
- ◆ Americans with Disabilities Act of 1990, as amended;
- ◆ The Age Discrimination Acts of 1967 and 1975, as amended;
- ◆ Section 188 of the Workforce Investment Act (WIA) of 1998; and
- ◆ Part 37 of the Code of Federal Regulations, Title 29.

The *Equal Opportunity is the Law* posters and client handouts/notices (in English and Spanish) with the wording specified in 29 CFR Part 37.54(d)(1)(iii) were developed and distributed statewide within the WorkSource Washington System. WDC Directors received additional guidance to ensure that WDCs located throughout the state display these posters. Copies of the November 1, 2000 memorandum and the notice instructing the WDC Directors to place these posters in prominent locations are included in Attachments 2I-1 and 2I-2. Janet Leach-Ruth, Acting Assistant Commissioner of the Administrative Services Division, issued a memo to ESD Assistant Commissioners, along with WorkSource, Job Service, TeleCenter and WPLEX Administrators; they were informed of the requirement to include alternate communication modes when telephone numbers are listed. (Attachment 2I-3) Where telephone numbers are listed, a TDD



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number will be included. A 1-800 relay number is accessible in the event a TDD number is not available. A memo was also sent to the Assistant Commissioner of the Office of Public Affairs regarding WIA nondiscrimination and EO requirements in notices and communication. (Attachment 2J) The department is in the process of developing a notice on cassette tape for individuals who are sight impaired. Efforts are made to ensure that communication with individuals with disabilities is as effective as communications with others. See Element 4.

Posters are now prominently displayed in all WDAs, their service providers, colleges, WorkSource Centers and affiliates, and program and activity locations receiving WIA Title I-B federal funding. During monitoring reviews the EO posters are checked for compliance. Posters are available upon request and can be ordered through the State/ESD EO Officer.

The EO notice has been made available to all registrants, applicants, eligible applicants/registrants, participants, applicants for employment and employees, unions, and interested members of the public.

In addition, WIA service providers require registered participants to sign a statement and/or provide acknowledgement indicating they understand their rights and have received the EO handout notice. When signed, a copy of this notice is placed in participants' files. (Attachments 2K-1 and 2K-2) See Element 7, Attachment A, for the monitoring tool, which addresses adherence to this policy. Also see Element 3, Attachment 3B-2, page 12, for the General Terms and Conditions of Grant Agreements.

The department and its partners have included the following tagline language on their official web sites, job announcements, brochures and advertisements:

"WorkSource Washington (or name of recipient) is an equal opportunity employer and provider of employment and training services. Auxiliary aids and services are available upon request to persons of disability."

In a memo dated December 21, 2000, to the twelve WDC Directors, all grantees are instructed to include the EO tagline in "... recruitment brochures and other materials that are ordinarily distributed or communicated in written and/or oral form, electronically and/or on paper, to staff, clients, or the public at large, to describe WIA Title I financially assisted programs or activities. . . ." The tagline language follows. (Attachment 3C-1, page 3, in Element 3) Tagline language and instructions are also reiterated in the same attachment on page 5, last paragraph, and continued on page 6.

Tagline language, the Equal Opportunity Notice in English and Spanish and the discrimination complaint procedures are available on the department and local partners' official web site, [go2worksource.com](http://go2worksource.com). (Attachment 2L)



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Attached are sample materials, job announcements, brochures for veterans, and publications which include EO tagline language. (Attachments 2M-1 – 2M-11) As additional materials are produced to market programs and services, the EO tagline language will continue to be used.

The Unemployment Insurance (UI) Policy Unit staff members are aware of the need to include the EO tagline on documents sent to the public. ESD's Office of Communications, which prepares many of the UI flyers and brochures, has been advised about the need to include the tagline on all documents it produces. (Attachment 2J)

The UI Claims Kit has been revised and includes further information on filing discrimination complaints. (Attachment 2M-9) Both the UI Claims Kit and the "What's Next" flyer have been translated into Spanish. (Attachment 2M-10 & 2M-11) The new claims kit includes a statement in eight languages, including English, instructing LEP persons on how to obtain help with understanding the claims kit.

### **Ensuring Accessibility**

**W**orkSource Washington is committed to making all services, facilities and information accessible and usable by limited English proficient (LEP) clients. For purposes of this document, "limited English proficient client" means "a person applying for or receiving department and partner services, either directly or indirectly, who, because of a non-English speaking cultural background, cannot readily speak or understand the English language." In addition, efforts are made to include both men and women, racial and ethnic minorities, and individuals with disabilities. See Attachment 2N for an "EO is the Law" notice provided to the Governor's Committee on Disability Issues' mailing list.

Where a need has been identified, bilingual positions have been established throughout the Employment Security Department to ensure communication with LEP clients. The Washington State Department of Personnel approves the establishment of these positions on identified criteria. Positions currently approved for bilingual selectives are Spanish, Vietnamese, and Russian. When other language needs are identified, translation services are arranged for the client at no charge.

Targeted outreach efforts have been underway to promote WorkSource, WorkFirst (Welfare To Work), UI and veterans services. Marketing efforts were targeted to LEP communities, including the Russian- and Korean-speaking community.

The Employment Security Department has formed an LEP Committee to address several key requirements in the LEP interpretive policy guidance issued by the United



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States Department of Labor/CRC on January 17, 2001. Individuals on the LEP Committee are charged with:

- Conducting the required assessment of LEP demographics and language needs.
- Designing an LEP Plan and Policy.
- Identifying the incidence in population and the kinds of services provided in the local areas.
- Developing the guidance and timetables for local planning.
- Identifying the documents in each program that require written translation, and the priority for completion of written translation into the various required languages.
- Designing the monitoring process.

Statistics indicate that Spanish is the primary language of the LEP population in Washington State. However, the LEP Committee will assess and identify the need to serve other significant language groups.

The LEP Committee is coordinating efforts to obtain translations where documents are shared. If recipients require translation for any other documents, the committee will assist in providing technical assistance, to the extent possible. See Attachments 2M-9 – 2M-10 and 2S1 – 2S-2 for samples of translated material.

The UI Division has developed and implemented an LEP Policy, "Unemployment Insurance (UI) Program Policy on Providing Services to Customers with Limited English Proficiency (LEP)," UI Circular 15-02. (Attachment 2M-12)

### **Information Dissemination and Training**

**R**egistrants, applicants, eligible applicants/registrants, participants and applicants for employment are made aware of their rights during orientations for WIA services. All eligible participants are provided with the following documents at orientations and/or registration by subrecipients or contractors. Follow-up monitoring is conducted by the WDC to ensure that a copy of these documents is provided for signature:

- Notice of Rights to File a Complaint (EO is the Law Notice)
- Release of Information form
- Complaint and Grievance form

ESD has updated its new employee orientation. All ESD employees are provided with copies of relevant policies and procedures, e.g., the Harassment, Reasonable



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Accommodation and Nondiscrimination on the Basis of Disability, Discrimination Complaint Procedures, Alcohol and Drug-Free Workplace, and EO Policies and Procedures. This is not an inclusive list. Attachment 2Q contains ongoing training. Staff continues to receive training and technical assistance relative to these policies and procedures.

The State EO Officer and department staff are proactive in providing local EO Officers information in identifying and meeting training needs. (Attachment 2O) A matrix/list of the training on nondiscrimination and equal opportunity, as well as other skills training for staff, is included in Attachment 2P. Attachment 2R contains sample agendas of training provided in 2000 for staff and partners regarding the WIA regulations.

In addition, on June 19, 2001, EO Officers, WorkSource administrators and other partner staff participated in a WIA/EO MOA Orientation, which provided a high-level overview of the nondiscrimination and EO requirements of the WIA regulations. (See Attachment 1I/Element 1.) A three-day Training Conference on December 11 – 13, 2001, focused on ensuring that individuals who play a critical role in the provision of services understand the requirements in the EO regulations. The conference also provided the necessary tools and applications to those responsible for ensuring compliance with the EO regulations. (Attachment 1J/Element 1)

Equal Opportunity training is presented on a periodic basis or when requested. The State/ESD EO Officer provide periodic EO informational updates, as well as notices of EO-related training sponsored by other sources, such as the annual CRC/National Association of State Workforce Agencies EO Training Conference. The State/ESD EO Officer also provide EO technical assistance to the local-level EO Officers on an ongoing basis.





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## Documentation

### Attachments for Element Two

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- 2A RCW 49.60 Discrimination – Human Rights Commission
- 2B Executive Order No. 93-07
- 2C 1-ESD Diversity Plan (June 29, 1994)  
2-Diversity Plan Update (March 12, 1996)
- 2D Executive Order No. 89-01
- 2E Executive Order No. 96-04
- 2F Governor's Directive No. 98-01
- 2G Revised Final WIA Policy Number 3445 on Nondiscrimination and EO Requirements
- 2H ESD EO Policy Number 0021 - Equal Opportunity/Affirmation Action
- 2I 1-*Equal Opportunity is the Law* Posters in English and Spanish  
2-November 1, 2000 Memo to WDC Directors  
3-December 22, 2000 Memo to Assistant Commissioners & WorkSource, Job Service, TeleCenter and W-Plex Administrators
- 2J November 27, 2000 Memo to Assistant Commissioner of the Office of Public Affairs
- 2K 1-"Equal Opportunity is the Law" Notice  
2-Notice of Right to File Complaint or Grievance
- 2L Tagline Language on Web site (Numerous Attachments)
- 2M 1-UI Brochure/"What You Need To Know" (with tagline)  
2-November 19, 2000 Newspaper Ad in The News Tribune (with tagline)  
3-Veterans Brochure and Marketing to Increase Services to Veterans (with tagline)  
4-HRC 3 Job Announcement (with tagline)  
5-Copies of Ad: Marketing Campaign (with tagline)





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- 6-WorkSource Whatcom "New Services" Brochure (with tagline)
- 7-SkillSource/On-the-Job Training Brochure from North Central Washington/Columbia Basin WDC (with tagline)
- 8-SkillSource/Office & Technology Center from North Central Washington/Columbia Basin WDC (with tagline)
- 9-UI Claim Kit (in English – with tagline)
- 10-UI Claim Kit (in Spanish – with tagline)
- 11-UI "What's Next" Flyer (with tagline)
- 12-UI Circular 15-02 - Unemployment Insurance (UI) Program Policy on Providing Services to Customers with Limited English Proficiency (LEP)

2N "EO is the Law" Notice Provided to Governor's Committee on Disability Issues' Mailing List

2O State Operations Plan (July 1, 2000 – June 30, 2005)

2P Professional Development Matrix for WIA Compliance

2Q Ongoing Training

2R WIA Regulations Training for Partners and Staff

2S 1-Northwest Workforce Development Council Brochure: "What Does NWDC have for me?" (in English)

2- Northwest Workforce Development Council Brochure: "What Does NWDC have for me?" (in Spanish)



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## ELEMENT THREE

### REVIEW ASSURANCES, JOB TRAINING PLANS, CONTRACTS AND POLICIES AND PROCEDURES (29 CFR 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv))

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.20 – 37.22 and 37.54(d)(1)(i) and (d)(2)(i), (iii) and (iv) regarding the review of assurances, job training plans, contracts, and policies and procedures. Additionally, Washington State addresses the procedures it and its recipients are following and will continue to follow in assessing the ability of grant applicants, if funded, or training providers, if declared eligible, to comply with WIA Section 188 and 29 CFR Part 37.*

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#### Background

The State of Washington does not knowingly do business with any entity that discriminates. It is ESD's policy to include a nondiscrimination and equal opportunity statement in all training plans, contracts and agreements. In addition, policies issued at the state and local level reinforce the department's commitment to ensure nondiscrimination at all levels.

The state requires all grant applicants and training providers to adhere to the nondiscrimination provisions of WIA Section 188 regarding assurances of nondiscrimination and equal opportunity. The assurance commits the recipient to "comply fully with the nondiscrimination and equal opportunity provisions" of WIA and acknowledges the government's right to seek judicial enforcement of the assurance. The specific language for this assurance is found in 37.20 (a)(1). All recipients of WIA funds and training providers must also ensure that the required EO assurance language is included in all documents. Where necessary, language regarding both programmatic and architectural accessibility to accommodate individuals with disabilities is also included. The agency has issued guidance to the WDCs regarding these requirements, as referenced in the State Operations Plan. See Attachment 20 for Element 2.



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### Narrative

Within the Administrative Services Division of the Employment Security Department, the Contracts Office routinely reviews all contracts and agreements prior to finalization and execution. The agency requires all applications for federal financial assistance under WIA to include EO assurances, committing potential recipients and subrecipients to full compliance with the nondiscrimination and EO provisions of WIA. This office works together with the program staff to develop language that incorporates affirmative action/nondiscrimination clauses, EO assurances and sanctions in contracts, grant agreements, interagency agreements, personal service contracts, and requests for proposal processes where state and federal funds are expended for services. A contracting guide has been developed and is available on-line. The assurance language is included. (Attachments 3A and 3B-1 – 3B-2) The Workforce Investment Act Grant Agreements all contain Exhibit A, General Terms & Conditions, Part II, C. Assurances. (Attachment 3B-I) All ESD contracts contain Exhibit B, General Terms & Conditions, Part II, E. Assurances. (Attachment 3B-2)

Offices will be monitored through technical assistance visits or desk audits by the State/ESD EO Officer. On-site structural accessibility, parking for individuals with disabilities, designated restrooms, program accessibility and effective communication with persons with disabilities are some of the elements to be monitored.

ESD has issued guidance to the WDCs regarding EO assurances. (Attachment 3C-1) Assurance of compliance with these regulations is part of each WDC's local service delivery plan. Each recipient is expected to ensure that training plans, contracts, assurances and similar agreements are consistent with the EO and nondiscrimination provisions of WIA. (Attachments 3C2 – 3C3) Additional guidance regarding these requirements is issued by program staff.

Local-level EO Officers are required to monitor facilities for compliance in their respective Workforce Development Areas. WDAs are monitored for compliance by the State/ESD EO Officer and/or the Monitoring Unit. The State/ESD EO Officer's state oversight Monitoring Review Guide includes specific monitoring review guidelines to ensure that all plans and contracts contain the required assurance language. See Element 7.

The Washington State Employment Security Department and its partners have developed a Methods of Administration detailing the actions that have been taken and will be taken to ensure compliance with 29 CFR Part 37. This document will be updated every two years, and updates will be forwarded to the Civil Rights Center.



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## Documentation

### Attachments for Element Three

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3A Contracting Guide (February 28, 2000)

3B 1-WIA Grant Agreement (used in grants by WDAs)

2-General Terms and Conditions for Grant Agreements Under WIA

3C 1-December 21, 2000 Memo to Workforce Development Council Directors

Regarding Updated Language for Operations Plan

2-SkillsSource Contractor Agreement from the North Central Washington/Columbia Basin WDC

3-Addendum to the Memorandum of Understanding from the Southwest Washington WDC



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## ELEMENT FOUR

### UNIVERSAL ACCESS (29 CFR 37.54(d)(1)(v)) (29 CFR 37.42)

*Washington State addresses how it and its recipients are complying with and will continue to comply with the requirements of 29 CFR 37.42 relating to the provision of universal access to programs and activities.*

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#### ONE-STOP CENTERS

##### Background

Through a \$9 million grant from the United States Department of Labor, Washington State began developing its One-Stop Career Center System prior to the WIA law being signed. The core elements of the system were customer focus, integration of services, universality of access to the system, and a strong accountability for the outcomes of the system. The One-Stop system was designed by a multitude of partners at both the state and local level with oversight by the Executive Policy Council (EPC). The EPC also required One-Stop partners to take into account the needs of the target populations, including, at a minimum, dislocated workers, veterans, migrant and seasonal farmworkers, disadvantaged adults and youth, job seekers with disabilities, older workers, and welfare recipients seeking employment. See Attachment 4A-1, pages 1, 6 and 9.

The planning and decision-making process in the development of One-Stop Centers laid much of the groundwork for what is now known as WorkSource Washington. During the implementation of WIA, planning directions were sent to the chief local elected officials. They were told to include an assessment of current and future employment opportunities and skills needs, current and future workforces, current workforce development systems, goals, objectives and strategies. Universal services for WIA Title I-B and other Title I-B funded employment and training services to youth, adults, and dislocated workers were also a requirement to be included in the plan. See Attachment 4A-2, pages 1, 2 and 4 only.

WorkSource Washington's electronic one-stop workforce system has been developed to reach out universally to all individuals interested in employment and training services. It is a customer service network designed to assist a broad range of job seekers and employers. The web site address is [www.go2worksource.com](http://www.go2worksource.com), which includes EO



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tagline language. Efforts to ensure the inclusion of the EO tagline language in all official web sites, job announcements, brochures and advertisements continue. See Element 2 for sample publications. Individuals are able to place their resumes on the web site for employers' review; request referrals to job openings that are listed; obtain information from classified ads, government jobs, company web sites, and America's Job Bank; and obtain information about apprenticeship programs and Labor Market information. The site, which can be accessed any time, offers opportunities for targeted populations to utilize and benefit from WIA services. (Attachment 4B-1 and 4B-2)

From this web site, individuals may also access services that are available locally by clicking on the link to Local Connections. This allows users to find out the name of their local Workforce Development Councils and the WorkSource and/or affiliate sites that operate within their area. Outreach efforts which encourage participation by all segments of the population that may be eligible for services are evident through these web sites. Most of these web sites are Bobby-approved and contain links to disability information for both job seekers and employers; many are available in languages other than English and in alternate formats, where applicable. These sites provide notice of employment and training opportunities, upcoming job fairs, and workshops and an orientation video. Links to other partner services help publicize services available to everyone. See web site examples in Attachments 4B-3, 4B-4 and 4B-5.

Where bilingual media is available and its use is appropriate, this resource will also be utilized to reach those who may not know about and/or have access to services. WDCs have been made aware of their obligation to provide appropriate language assistance to individuals with limited English proficiency in order to ensure meaningful access to programs and services, in accordance with DOL policy guidance. An LEP Committee has been formed to address DOL's interpretive policy guidance. See Element 2.

TTY/TDDs and the 1-800 relay service are available in offices to help ensure communication for all.

Service and training providers are co-located at the WorkSource Centers and affiliate sites across the state. This enables workforce customers to have access without having to go to another physical site to secure services. Customers are able to access services through self-service, staff-assisted service, workshops and training classes, and one-on-one staff-directed services. The levels of services are based on the needs of the customer. The criteria for priority of services for the various programs are provided in a nondiscriminatory manner. Staff at the state level has communicated to the WDCs their obligation to provide universal access and to include members of both sexes, members of various racial and ethnic groups, and members of various age groups, as well as individuals with disabilities. The WDCs were instructed to incorporate them in their WIA Operations and Strategic Plans, and they have done so. (Attachments 4A-2 and Section Two of 4C-1 and 4C-2)



In addition, Toby Olson, Executive Secretary of the Governor's Committee on Disability Issues and Employment (GCDE), is working in conjunction with the department and its partners to ensure universal access and training for persons with disabilities. The GCDE is the information clearinghouse for use by persons of disability and governmental and private employees. (Attachment 4E, RCW 50.12.250) Mr. Olson is also the Executive Secretary of the Northwest Disabilities Business Technical Assistance Center, which provides assistance to Washington, Idaho, Oregon and Alaska.

Within the WorkSource Centers, customers are provided with general unemployment insurance information, WorkSource assistance, and help with the use of self-service telephones. Assistance is also provided to UI claimants in developing training plans and conducting job search reviews, as well as to clients with special service needs.

In addition, the Unemployment Insurance Program has moved to a Claims TeleCenter for initial claims and adjudication of issues. Claimants call a local or toll-free telephone number and are connected with an automated call distribution function that identifies the reason for the call, determines what language the caller speaks, and routes the call to an agent for assistance.

All staff members who work in the TeleCenter participate in an intensive training program. Components include information about the way services are provided to persons who need language assistance. The forms and scripts used to file claims have been created to eliminate "jargon" that was part of the UI program for so long. Staff members know how to use the third party translator's services, as well as the TDD devices in each office. Calls can be routed through the state regardless of the caller's physical location so that wait times for customers are reduced and people needing language assistance, including TDD, are routed to the appropriate agent. Each TeleCenter has TDD equipment and several staff members in each office are trained in its use.

A claimant who needs language assistance is interviewed by a bilingual staff member who speaks the claimant's language, or he/she will be connected with a language line interpreter for assistance with the interview. In order to meet the demand of our customers, the agency continues to recruit additional bilingual staff. Claimants can receive free oral interpretation of any and all documents related to UI at any time. In addition, instructions are provided on filing weekly claims in Spanish, Russian, Chinese, and Vietnamese. The LEP Committee will be identifying needs to provide any further written translations and/or bilingual staff.

UI claims can be filed on the Internet at [go2ui.com](http://go2ui.com). This function is available in English and Spanish. Many forms, most of which are available in English and Spanish, can be





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downloaded. The weekly claiming instructions can be downloaded from the Internet in English, Spanish, Russian, Chinese, and Vietnamese.

Information about filing appeals of decisions made on unemployment claims is provided by the Office of Administrative Hearings (OAH), which is a separate state agency. OAH's booklet, "How to Prepare and Present your Case," is available in thirteen (13) languages: English, Spanish, Vietnamese, Russian, Chinese, Tagalog, Korean, Hungarian, Laotian, Polish, Amharic, Thai, and Cambodian. OAH also provides interpreters for any language free of charge to those requesting language assistance.

### Outreach and Recruitment

Efforts to provide services to a substantial segment of the population are based on census data, labor market analysis, service need assessments, other community and social service organizations, educational institutions, employers, labor and community service advocates. The WDCs are made up of representatives of public and private agencies, educators, employers, and community-based organizations that provide services to the disadvantaged, underserved, underemployed and targeted groups within their communities. They share a mutual interest in improving employment opportunities to meet the needs of employers and in improving the economic conditions in the community. Through the development of the local strategic plans, new cooperative efforts were established for all the partners in the workforce development system. Improvements in communications were made with the business sector and economic development organizations. Better collaborations from these new relationships have created a proactive environment for a stronger workforce development system.

Ongoing activities will continue to broaden the composition of those considered for participation in programs and activities. A sample document used to determine demographic information relative to priority is in Element 7, Attachment 7D. Other samples documenting demographic information can be found in the attached local area Strategic Plan for North Central Washington/Columbia Basin WDA. The Plan includes samples of data such as Current and Future Workforce; School Dropout Rates; Percent of Population by Gender, Race, and Hispanic Origin; State and County Population by Age; Public/Private School Enrollment by Race/Ethnic Origin; Persons with Disability Status; People of All Ages in Poverty and other data used by the WDC to help determine program priorities and provide universal access for all. See Attachment 4C-1.

Recipients continue to encourage their service providers and their contractors to extend outreach to broaden the composition of those considered for participation in their programs. Attached are two examples of outreach and enrollments from two contractors of the Yakima Workforce Development Area that focus on providing services to youth. Their outreach plans include public service announcements on





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community television and radio stations, as well as advertisements in the Spanish language and bilingual media. In addition, outreach and promotional efforts include a campaign to recruit individuals with disabilities. See Attachments 4D-1 and 4D-2.

The UI program instituted an outreach program to publicize the services offered. This outreach is aimed at reaching customers in various communities throughout the state that may be isolated from UI services due to language barriers. This outreach is done face-to-face, through print and radio media, and through third parties, such as community-based organizations.

Publications for unemployment are available in several languages and plans are underway to translate additional documents as they are updated. EO tagline language will continue to be included on those documents provided.

### **Monitoring**

WDCs continue to monitor who is being served by comparing the local labor market information for the population to be served with data from their reports showing the characteristics of their participants: i.e., members of both sexes, various racial and ethnic groups, individuals with disabilities, and individuals in differing age groups. They are working with their partners and community organizations to share information, provide job fairs, and ensure they continue to focus on providing outreach to target various populations.

To ensure that equitable services are provided to all segments of our population, a staff person in the UI Policy Unit is assigned the responsibility of regular monitoring of EO reports, use of third party interpreters, and customer satisfaction surveys. The person in this position reports to the Washington Management Service Policy Lead. Copies of the EO reports are provided to the State EO Officer. See Element 1. Calls to claimants who need language assistance are monitored to ensure they receive accurate information. This is used as a training tool for staff and for monitoring the quality of our contract interpreters.

The efforts demonstrated by ESD and its recipients to broaden the representation of persons for participation and employment is monitored and evaluated by the State/ESD EO Officer on an ongoing basis through on-site compliance reviews. See Element 7.



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## Documentation

### Attachments for Element Four

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- 4A 1-Washington's One-Stop Career Center System Decisions  
2-Local Workforce Development Council Formation and Certification
  
- 4B 1-WorkSource Washington Web Site Home Page  
2-Apprenticeship Web Site Home Page/WorkSource Washington  
3-WorkSource Spokane (Tagline, Contractor Tagline, Disability, Languages)  
4-WorkSource Bellevue (Taglines/Employer Links/Partners/Disability)  
5-SkillSource Wenatchee (Partners/Languages)
  
- 4C 1-North Central Washington/Columbia Basin Five Year Strategic Plan  
2-Olympic Workforce Development Council Strategic Plan
  
- 4D 1-YVOIC Outreach and Enrollment  
2-NCAC Outreach and Enrollment
  
- 4E RCW 50.12.250 Information clearinghouse to assist in employment of persons of disability



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## ELEMENT FIVE

### COMPLIANCE WITH SECTION 504 OF THE REHABILITATION ACT OF 1973, as amended, and 29 CFR Part 37 (29 CFR 37.54 (d)(2)(v)) (29 CFR 37.7 – 37.9)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of the disability related requirements of WIA Section 188; Section 504 of the Rehabilitation Act of 1973, as amended; and their implementing regulations, including but not limited to 29 CFR 37.7, 37.8, and 37.9 and Subparts B and C of 29 CFR Part 32; the Americans with Disabilities Act and RCW 49.60.*

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#### **Background**

Washington State is committed to making all services, facilities and information accessible and usable by individuals with disabilities. See Attachments 5A-1 – 5A-4. This applies to all programs, activities, and services provided by or made available within the WorkSource Washington System to potential employees, volunteers, contractors/service providers, licensees, clients, and potential clients.

Washington State ensures nondiscrimination on the basis of disability by:

1. Providing opportunities for participation or benefits equal to that afforded to others;
2. Providing financial aid, benefits, services or training equal to that provided to others;
3. Ensuring that qualified individuals with disabilities are offered the option of participating in the same programs or activities offered to non-disabled individuals.
4. Denying assistance, either directly or through contractual licensing or other arrangements, to any agency, organization or person that discriminates on the basis of disability;
5. Ensuring that licensing and/or certification programs operate in a manner which does not discriminate against qualified individuals;
6. Ensuring that eligibility criteria does not screen out individuals with disabilities from fully and equally enjoying any aid, benefit, service, training, program, or activity, unless such criteria can be shown to be



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- necessary for the provision of the aid, benefit, service, training, program, or activity being offered; and
7. Eliminating barriers to employment and providing accommodations in the workplace.

Employment practices are evaluated to include job qualifications for positions, helping to ensure there are no barriers to employment. The State/ESD EO Officer monitors the evaluation processes to ensure compliance. See Element 7.

Washington State is committed to providing reasonable accommodation to qualified individuals with disabilities in all aspects of its programs, employment services and activities, unless providing the accommodation would cause undue hardship. Accommodations may include, but are not limited to, qualified sign language interpreters, readers, auxiliary aids and alternate formats. Reasonable modifications in policies, practices, or procedures are made, when necessary, to avoid discrimination on the basis of disability, unless making the modifications would fundamentally alter the nature of the service, program, or activity.

Some of the steps taken by ESD and WorkSource Washington to ensure its employment practices, services, programs, and activities are readily accessible by individuals with physical, mental, or sensory disabilities include the following:

- Policy and Procedure Number 0013-1 - ESD Disability Awareness and Reasonable Accommodation, currently under revision, indicates the department's firm commitment to providing timely reasonable accommodations to the known physical, mental or sensory limitations of an otherwise qualified individual with a disability. The accommodations may include any adjustments and modifications which provide a disabled person access to all terms, conditions and privileges of employment, insurance benefits, and employer-supported activities. Qualified sign language interpreters, readers, and other auxiliary aids are provided upon request. (Attachment 5B-4)
- ESD Policy and Procedure Number 1011 - Use of Barrier Free Facilities and Programs for Agency Sponsored Events: Accessibility to programs includes the provision of sign language interpreters and audio taped or materials in Braille. These accommodations are available upon request. Additionally, notices and publicity advertising agency events should indicate the availability of interpreters and taped or materials in Braille upon request. (Attachment 5B-3)



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- WorkSource Washington operates each service, program, or activity so that, when viewed in its entirety, they are readily accessible to and usable by individuals with disabilities. All program services and activities are offered to individuals with disabilities in the most integrated setting appropriate to them. To achieve program and activities accessibility, WorkSource Washington considers the redesigning of equipment, as well as the provision of appropriate auxiliary aids.

The WIA Equal Opportunity and Non-discrimination Policy states that grantees, subrecipients and contractors funded under WIA, whether in whole or in part, are instructed to administer “. . . WIA-funded programs and activities to ensure physical as well as program accessibility to individuals with disabilities, that programs are provided in the most integrated environment appropriate to individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others. For example, where telephone numbers are given, a TDD number or relay service must also be provided. . . .” (Attachment 2G)

- To ensure program accessibility and technical assistance, Disability Specialists are located in each WorkSource Office. These specialists provide services and technical assistance regarding the needs of individuals with disabilities. (Attachments 5C-1 – 5C-3)
- Attachments 5D-1 – 5D7, Building Skills 2000, are a representative sample of specialized training. A focus of the conference was “Integrating Individuals with Disability into WIA.” See the PowerPoint presentation. (Attachment 5D-2) Participants were also provided with copies of the “Policy Brief” regarding nondiscrimination on the basis of disability. (5D-3)
- See comments regarding WIA Policy Number 4031 - Auxiliary Aids for Effective Communication under “Communication,” Element 5.
- Sample copies of relevant policies from Washington State partners are included in Attachments 5B-7a – 5B-7d.

The DOL Office of Disability Employment Policy's Disability Checklist has been distributed to all WDCs.

Washington State continues in its efforts to assist registrants, applicants, eligible applicants/registrants and participants with disabilities. WorkSource partners have created the WorkSource Disability Network (WDN) steering committee and an extensive



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WorkSource Disability Network plan to ensure universal access to all customers of WorkSource Centers and Affiliate Sites.

The WorkSource Disability Network's (WDN) plan includes:

- Comprehensive disability accessibility assessments — Assessments have been completed for all WorkSource Centers and eleven Affiliates.
- Individual disability access improvement plans — Developed by each center based on the results of their assessment. Model policies and procedures for serving customers with disabilities have been developed and disseminated.
- Removal of access barriers in the existing Information Technology (IT) infrastructure — Over \$300,000 of assistive technology has been purchased and distributed to centers and affiliates along with training and technical support.
- Staff Training — A disability component was incorporated into the customer service training, which is mandatory for all Employment Security staff. Many WorkSource partner staff have taken the training as well. Four two-day training sessions on serving people with disabilities in WorkSource have been presented around the state. Training on issues related to serving people with disabilities has been incorporated into all of the major WorkSource conferences and training events held in the state. Two WorkSource Centers have instituted a practice of holding a one-hour training session for staff each month on a different disability issue or program. The WDN is working to support other Centers in adopting this practice; Trainers in the WorkSource Operations Division have developed a "Disability 101" training session that will be offered to Disability Placement Specialists and to other WorkSource staff.
- Technical Assistance — The Employment Security Department, the Governor's Committee on Disability Issues and Employment (GCDE) and the Division of Vocational Rehabilitation have established a Technical Assistance Clearinghouse. The Clearinghouse serves as a single point of contact on issues related to service to people with disabilities and provides access to information, linkage to useful resources and assistance with creative problem solving.
- Pilot Projects — The Washington Workforce Association (WWA), through a Workforce Incentive Grant (WIG), has funded three local projects designed to test innovative program strategies and create replicable models to improve



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services for customers with disabilities. The results of these projects will be shared throughout the state.

- Benchmarks and performance measures — The WDN has established a work group that has identified issues that negatively impact the collection, consistency, utility and confidentiality of the disability data collected through WorkSource. Recommendations to correct the problems identified have been identified and the workgroup is working to implement those recommendations.

### Architectural Accessibility

State entities and partners are required to follow specific compliance requirements for implementation with the Americans with Disabilities Act (ADA). WDCs have been informed of their obligation to abide by federal EO and nondiscrimination provisions, to include ADA. This has been communicated through the Strategic Plan, the self-assessment process for certification of WorkSource Offices and affiliate sites, and in the assurance language in WIA grant agreements. WorkSource Offices that are not state-owned/leased must abide by local building codes and standards for accessibility, as well.

Some of the steps taken by ESD and WorkSource Washington to ensure all programs and activities are architecturally accessible to individuals with disabilities follow:

- ESD Policy and Procedure Number 0013-1 - Reasonable Accommodation and Nondiscrimination on the Basis of Disability, which is being revised, states:  
“ . . . The Department shall provide its services, and operate its programs and/or activities so that, when viewed in their entirety, they are accessible to qualified persons of disability. Service and program accessibility includes the requirement that physical structures be accessible to mobility impaired persons. . . .” (Attachment 5B-4)
- The ESD Facilities Unit inspects ESD’s facilities at lease renewal to ensure compliance with requirements of the Americans with Disabilities Act of 1990. A checklist was developed by the State of Washington, with the help of the Governor's Committee on Disability Issues and Employment, members of the disabled community, and client agencies. This checklist meets the requirements for barrier-free access in Washington State, and is more stringent than federal standards. It is used for the evaluation and selection of new and existing facilities. The evaluation focuses on site access, signage at primary building entrances of inaccessible facilities, interior door and corridor





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widths, public restroom requirements and other architectural specifications of the ADA Accessible Guidelines for compliance with WAC 51-40-005 of the 1992 Washington State Building Code. (Attachment 5E) Copies of the facility evaluations are maintained in the Facilities Unit. In an effort to ensure compliance, the Facilities Unit has also recently instituted a new program addressing signage in all facilities. The checklist and sample evaluations are included in Attachments 5F-1 – 5F-3. Upon request, the Facilities Unit provides assistance to the partners.

- The WDCs were given criteria to follow to become certified as a WorkSource Center. Each WDC provided this information in the way that worked best for it. One good example to note is that of the Pacific Mountain WDC's facilities review. The Pacific Mountain WDC chose to have a well-known external expert who works with disabilities issues for clients to conduct its review (Payne & Associates, Inc.). (Attachment 5G)

### Communication

**W**orkSource Washington partners take appropriate steps to ensure that communications with applicants, clients, and members of the public with disabilities are as effective as communications with others. Auxiliary aids and/or services are provided, when appropriate and necessary, to afford individuals with disabilities opportunities to participate in and enjoy the benefits of WIA-Title I-financially assisted programs or activities. TDD or equally effective telecommunications systems to communicate with individuals with impaired hearing or speech are available when needed.

The WDCs have been informed of their obligation to ensure that communications with members of the public, clients, and applicants with disabilities are as effective as communications with others. The WIA Equal Opportunity and Non-discrimination Policy states that grantees, subrecipients and contracts funded under WIA, whether in whole or in part, must ensure that “. . . programs are provided in the most integrated environment appropriate to individuals with disabilities, and that communications with individuals with disabilities are as effective as communications with others. For example, where telephone numbers are given, a TDD number or relay service number must also be provided. . . .” (Attachment 2G)

WIA Policy Number 4031, Auxiliary Aids for Effective Communication, states, under “Local Service Delivery Site Responsibilities,” . . . Management and staff at all local service delivery sites ensure that Persons with Disabilities, including individuals who are deaf, deaf-blind, and/or hard-of-hearing, blind or visually impaired, are given equal access to all services and programs . . . This is accomplished by: (1.) Identifying and advising Persons with Disabilities of the availability of auxiliary aid services that can be





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arranged, and (2.) **Upon request**, arranging for and providing for auxiliary aid services **at no cost to the customer**. . . ." (Attachment 5C-3)

Additionally, ESD Policy and Procedure Number 0013-1, Reasonable Accommodation and Nondiscrimination on the Basis of Disability, states ". . . The Department is committed to ensuring that all aspects of its employment practices, services, programs, and activities, when viewed in their entirety, are readily accessible by individuals with physical, mental, or sensory disabilities. . . . Where required, qualified sign language interpreters, readers, and other auxiliary aids will be provided. Documents and publications will also be made available in alternate formats. . . ." (Attachment 5B-4)

### Records

**E**SD and the WDCs ensure the confidentiality of information related to an individual's medical condition as noted in 29 CFR Part 32, Subpart B and the Americans with Disabilities Act. Medical condition information is kept in a secured location separate and apart from other files. Electronic systems also support separate recordkeeping for medical condition information. Pre-employment/employment medical inquiries are conducted in accordance with WIA, ADA and Section 504 regulations. Specific guidance is referenced in the recipients' policies and resource sharing and grant agreements. EO monitoring includes adherence to these provisions. See Elements 2, 6 and 7.

ESD's Policy and Procedure Number 0013-1, Reasonable Accommodation and Nondiscrimination on the Basis of Disability, states ". . . Upon completion of the reasonable accommodation process, all supporting information needs to be forwarded to the ADA Coordinator or other HRM Branch designee. There it will be filed in a secure place, separate from an employee's personnel file. . . ." (Attachment 5B-4)



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## Element Five Definitions

**A** **uxiliary aids or services** includes - (1) Qualified interpreters, notetakers, transcription services, written materials, telephone handset amplifiers, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDDs/TTYs), videotext displays, or other effective means of making aurally delivered materials available to individuals with hearing impairments; (2) Qualified readers, taped texts, audio recordings, brailled materials, large print materials, or other effective means of making visually delivered materials available to individuals with visual impairments; (3) Acquisition or modification of equipment or devices; and (4) Other similar services and actions.

**D** **isability** means, with respect to an individual, a physical or mental impairment that substantially limits one or more of the major life activities of such individual; a record of such an impairment; or being regarded as having such an impairment: Or a physical, mental or sensory impairment that is abnormal, and medically cognizable.

**E** **mployment practices** means a recipient's practices related to employment, including but not limited to: (1) Recruitment or recruitment advertising; (2) Selection, placement, layoff or termination of employees; (3) Upgrading, promotion, demotion or transfer of employees; (4) Training, including employment-related training; (5) Participation in upward mobility programs; (6) Deciding rates of pay or other forms of compensation; (7) Use of facilities; or (8) Deciding other terms, conditions, benefits and/or privileges of employment. Employment-related training means training that allows or enables an individual to obtain employment.

**F** **acility** means all or any portion of buildings, structures, sites, complexes, equipment, roads, walks, passageways, parking lots, rolling stock or other conveyances, or other real or personal property or interest in such property, including the site where the building, property, structure, or equipment is located. The phrase "real or personal property" in the preceding sentence includes indoor constructs that may or may not be permanently attached to a building or structure. Such constructs include, but are not limited to, office cubicles, computer kiosks, and similar constructs.

**F** **undamental alteration** means: (1) A change in the essential nature of a program or activity as defined in this part, including but not limited to an aid, service, benefit, or training; or (2) A cost that a recipient can demonstrate would result in an undue burden. Factors to be considered in making the determination whether the cost of a modification would result in such a burden include: (a) The nature and net cost of the modification needed, taking into consideration the availability of tax credits and



deductions, and/or outside financial assistance, for the modification; (b) The overall financial resources of the facility or facilities involved in the provision of the modification, including: (i) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities; and (ii) The effect the modification would have on the expenses and resources of the facility or facilities; (c) The overall financial resources of the recipient, including: (i) The overall size of the recipient; (ii) The number of persons aided, benefited, served, trained, or employed by the recipient; and (iii) The number, type and location of the recipient's facilities; (d) The type of operation or operations of the recipient, including: (i) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient; and (ii) Where the modification sought is employment-related, the composition, structure and functions of the recipient's workforce; and (e) The impact of the modification upon the operation of the facility or facilities, including: (i) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties; and (ii) The impact on the facility's ability to carry out its mission.

**Qualified individual with a disability** means: (1) With respect to employment, an individual with a disability who, with or without reasonable accommodation, is capable of performing the essential functions of the job in question; (2) With respect to aid, benefits, services, or training, an individual with a disability who, with or without reasonable accommodation and/or reasonable modification, meets the essential eligibility requirements for the receipt of such aid, benefits, services, or training.

**Qualified interpreter** means an interpreter who is able to interpret effectively, accurately, and impartially, either for individuals with disabilities or for individuals with limited English skills. The interpreter must be able to interpret both receptively and expressively, using any necessary specialized vocabulary.

**Reasonable accommodation** - (1) The term "reasonable accommodation" means: (i) Modifications or adjustments to an application/registration process that enables a qualified applicant/registrant with a disability to be considered for the aid, benefits, services, training, or employment that the qualified applicant/registrant desires; or (ii) Modifications or adjustments that enable a qualified individual with a disability to perform the essential functions of a job, or to receive aid, benefits, services, or training equal to that provided to qualified individuals without disabilities. These modifications or adjustments may be made to: (A) The environment where work is performed or aid, benefits, services, or training are given; or (B) The customary manner in which, or circumstances under which, a job is performed or aid, benefits, services, or training are given; or (iii) Modifications or adjustments that enable a qualified individual with a disability to enjoy the same benefits and privileges of the aid, benefits, services, training, or employment as are enjoyed by other similarly situated individuals without disabilities. (2) Reasonable accommodation includes, but is not limited to: (i) Making existing facilities used by applicants, registrants, eligible applicants/registrants,



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participants, applicants for employment, and employees readily accessible to and usable by individuals with disabilities; and (ii) Restructuring of a job or a service, or of the way in which aid, benefits, or training is/are provided; part-time or modified work or training schedules; acquisition or modification of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of readers or interpreters; and other similar accommodations for individuals with disabilities. (3) To determine the appropriate reasonable accommodation, it may be necessary for the recipient to initiate an informal, interactive process with the qualified individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.

**Undue hardship** means, with regard to reasonable accommodation of individuals with disabilities, significant difficulty or expense incurred by a recipient, when considered in light of the factors set forth in paragraph (ii). (ii) Factors to be considered in determining whether an accommodation would impose an undue hardship on a recipient include: (A) The nature and net cost of the accommodation needed, taking into consideration the availability of tax credits and deductions, and/or outside funding, for the accommodation; (B) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, including: (1) The number of persons aided, benefited, served, or trained by, or employed at, the facility or facilities, and (2) The effect the accommodation would have on the expenses and resources of the facility or facilities; (C) The overall financial resources of the recipient, including: (1) The overall size of the recipient, [Page 61722] (2) The number of persons aided, benefited, served, trained, or employed by the recipient, and (3) The number, type and location of the recipient's facilities; (D) The type of operation or operations of the recipient, including: (1) The geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the recipient, and (2) Where the individual is seeking an employment-related accommodation, the composition, structure and functions of the recipient's workforce; and (E) The impact of the accommodation upon the operation of the facility or facilities, including: (1) The impact on the ability of other participants to receive aid, benefits, services, or training, or of other employees to perform their duties, and (2) The impact on the facility's ability to carry out its mission.



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## Documentation

### Attachments for Element Five

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- 5A 1-RCW 50.12.210 Employment Services for Handicapped – WAC 162  
2-Title 162 WAC Human Rights Commission  
3-Disability Access Information on the Web Site  
4-Executive Order No. 96-04 Implementing the Americans with Disabilities Act and  
Superseding 93-03
- 5B 1-Workforce Diversity Program - Affirmative Action Planning Guidance  
2-Identifying Essential Job Functions  
3-Policy and Procedure Number 1011 - Use of Barrier Free Facilities and Programs  
for Agency Sponsored Events  
4-Policy and Procedure Number 0013-1 - Reasonable Accommodation and  
Nondiscrimination on the Basis of Disability  
5-Disability Placement Services Design Document  
6-Testing Services for Persons with Disabilities  
7-Partner Policies: Department of Social and Health Services (Division of Access  
and Equal Opportunity)  
a-Reasonable Accommodation of Persons with a Disability (#582)  
b-Communication Access for Persons Who Are Deaf and Hard of Hearing (#720)  
c-Accessible Meetings  
d-Application for DVR Services
- 5C 1-Disability Placement Services  
2-List: Local Disability Placement Specialists  
3-Auxiliary Aids for Effective Communication
- 5D 1-Building Skills 2000 Overview  
2-PowerPoint Presentation  
3-Policy Brief  
4-Federal Regulation 29 CFR Part 37  
5-Ability You Can Bank On  
6-Protocol for Serving Customers with Disabilities  
7-Vocational Rehabilitation Web Site
- 5E WAC 51-40-005 Uniform Building Code Requirements



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## Documentation

### Attachments for Element Five - Continued

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- 5F 1-Barrier-Free Access/A Checklist for State Leased Facilities
- 2-ADA Checklist Evaluation Report/Aberdeen Career Development Center  
(Sample of Office Checklist)
- 3-ADA Checklist Evaluation Report/Goldendale (Sample of Office Checklist)
  
- 5G Certification Criteria for Pacific Mountain Workforce Development Area II



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## ELEMENT SIX

### DATA AND INFORMATION COLLECTION AND MAINTENANCE

(29 CFR 37.54(d)(1)(iv) and (vi))  
(29 CFR 37.37 – 37.41 and 29 CFR 37.53)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.37 through 37.41 related to data and information collection and maintenance.*

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#### Background

Washington State has ensured that policies and procedures for data collected for job seekers, employers and agency employees are established and maintained for all WIA Title I financially assisted state programs. ESD also maintains and annually updates a Data Information/Technology Security plan through the Department of Information Services. This is to ensure that data collected is secure and provides contingency plans for unexpected failures. The Washington State Employment Security Department currently maintains two data systems that capture, store and report information considered confidential and which fall under the guidelines and requirements for our policy and procedures, as well as the Technology Security Plan.

#### Data Collection

All agency systems have been modified to meet the requirements for capturing and reporting EO data elements. While UI EO data reports are still produced quarterly from the General Unemployment Insurance Development Effort (GUIDE) system and WorkSource reports are available from the Services Knowledge Information and Exchange System (SKIES) on an ad hoc basis, standardized reports are under development.

ESD data, including employee information, are captured in the following systems:

GUIDE	General Unemployment Insurance Development Effort, for tracking unemployment insurance benefits and claimant activities. (Attachment 6C)
HRIS	Human Resources Information System, for capturing and maintaining records for agency employees. (Attachment 6E)





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**SKIES** Services Knowledge and Information Exchange System (SKIES), an MIS system for tracking WIA Title I and TAA/NAFTA participants, and a case management tool for the One-Stop WorkSource statewide structure for Washington State. This is a job matching, case management and information-tracking system that supports the collection of data used for reporting purposes. The SKIES application has been developed to meet the EO reporting requirements identified in 29 CFR 37.37 through 37.41. (Attachments 6A-1 and 6A-2)

Washington State's WorkSource delivery system is compliant with 29 CFR 37.37 through 37.41 in the collection of the required EO statistical data at the point at which the job seeker/client is "registered" or the person hired becomes an employee of the agency or its partnerships. (Attachments 6P-1 and 6P-3)

Policies, procedures and security plans are in place to safeguard collected information pertaining to specific job seekers, program participants, enrollees, benefit claimants, employers and agency/partnership employees. These policies, procedures and plans are reviewed and modified, if necessary, on an annual basis. Data is accessible only to program managers, program monitors, case managers, and a limited number of other "authorized" personnel needing access to these systems to provide direct services. (Attachments 6D and 6M)

The GUIDE system, which is used to process unemployment claims, collects demographic information as required by the Civil Rights Center. This information includes the following information about each claimant:

- Race/ethnicity
- Sex
- Age
- Disability status

This information is confidential and is used for the purposes of record keeping and reporting and determining program compliance with nondiscrimination requirements. Information about race, sex, age and disability is obtained from UI applicants at the time they file for benefits. This information is entered into an automated applicant tracking system and is provided on a voluntary basis by claimants. Ethnicity designations will be upgraded to comply with new requirements to include both race and ethnicity. (Attachment 6N)





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Claimant information is automatically transferred to our job registration system unless the claimant requests to be excluded. Access to this information is limited to those persons with a legitimate business need to access the systems. Access and use of information maintained by the Employment Security Department is covered in the following Policies and Procedures:

- ESD Policy and Procedure Number 0006, Request for Public Records/Disclosure and Privacy of Information and Records (Attachment 6L-2);
- ESD Policy and Procedure Number 0029, On-Line or Bulk Data/Information Policy, covering the confidentiality of information obtained by the Employment Security Department (Attachment 6L-2);
- ESD Policy and Procedure Number 1016, Employee Conduct (Attachment 6M); and
- ESD Policy and Procedure Number 2010, Mainframe Security (Attachment 6L-2).

ESD Policy and Procedure Number 1016, Employee Conduct, page 8, states that the penalty for failure to comply with the requirements for confidentiality of data will be grounds for nothing less than disciplinary action, up to and including dismissal. (Attachment 6M)

### **Data Storage and Reports**

Since the inception of WIA on July 1, 2000, state administrators and the twelve Workforce Development Councils have had two access portals to information to analyze compliance with 29 CFR Part 37. Data/Flex described above has its own query capability. In addition, an Agency Data Warehouse/MART has extracted and archived participant data that includes the required EO data elements. These are organized by the U.S. DOL WIASRD standards. Archived JTPA data is available for the conversion protocol used for race and ethnicity. (Attachment 6I)

The data stored are designed to allow CRC to conduct specific statistical/quantifiable data analyses upon request. Administrative management uses the data monthly to monitor for participant activity. The data is reported to the U.S. DOL quarterly according to the individual program's reporting requirements. The public and employers can also access non-confidential consolidated information for use in complaint or eight-point affirmative action analysis. Samples are included in the documentation for Element 7.

UI managers in the TeleCenters and UI Division staff generate automated statewide equal opportunity reports. The reports compile information about individuals by race/ethnicity, gender, age, and disability status. These reports are examined to determine whether groups are represented substantially in the same proportion after decision points, such as denials for benefits. When there are instances of disparities in



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representation, the disparities are discussed with program management. This information is shared with the ESD/State EO Officer. The ethnicity of the claimant is now included in these reports. (Attachment 6N)

### **Self-Service and Monitoring**

Clients who use only the self-service features of the WorkSource System are not registered. WorkSource Washington has a business need to know if clients who utilize only self-service find jobs. Additionally, there is concern about whether or not clients are experiencing barriers (e.g., language barriers, physical barriers, etc.) and whether or not the clients' right to privacy is maintained. These clients are asked to voluntarily provide their names and social security numbers in order to cross-match use of self-service with wage records to determine if clients entered employment as a result of self-service. The request for this minimal information is consistent with the Governor's Executive Order that Washington State agencies respect clients' privacy and ask for the least amount of personal information possible while still providing services. (Attachments 6G and 6H)

Local EO Officers observe self-service activity, meet with and interview staff members regarding their observations and review, and identify corrective action, if necessary. The State/ESD EO Officer, in conjunction with the local EO Officers, will also monitor self-service. See Element 7.

### **Logs**

Each local area and the state maintains a log of complaints filed that allege discrimination on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, belief, citizenship and/or participation in a WIA Title I financially assisted program or activity. See Attachment 6F-1 for a sample copy of a log. These records are maintained for a period of three (3) years. Instructions are incorporated into policy directions and are included in Attachments 6F-1 and 6F-2. Also see Element 8.

### **Records**

Records, particularly those containing medical condition information, are securely kept separate and apart from other information and, in addition, are kept confidential. Samples of instructions for collection and separation are included in Assurances. See Elements 3 and 5. Also see Attachment 2O in Element 2, State Operations Plan, regarding "Maintenance of Records"; Element 5 for the Reasonable Accommodation Policy; and State Policy Guidelines. (Attachments 6G, 6H, 6I, 6J-1, 6J-2, 6K, 6L-1, 6L-2, and 6P-2)



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Records are maintained for at least three years, in compliance with state and federal regulatory requirements. Audit standards and OMB A133 compliance requirements ensure that records are maintained for the correct amount of time and meet the confidentiality requirements of the CRC. Audit reports are reviewed as a supplement to the regular monitoring and oversight. If an entity were found to be out of compliance, corrective administrative actions would be required. (Attachments 6J-1, 6J-2, and 6K)

### **Enforcement Actions**

**T**he Director of CRC will be informed of all administrative enforcement actions or lawsuits that allege discrimination on one or more of the bases outlined above and prohibited by WIA Section 188.



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## **Documentation**

### **Attachments for Element Six**

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- 6A 1-SKIES Data Elements and Screens at the Initial Collection Point  
2-SKIES Flowchart and Description
- 6B WIA and Welfare-to-Work Registration Form and Instructions, pages 1-11/Copy of the Report
- 6C Intake Script for Data Collection and Sample Reports/Unemployment Insurance
- 6D Data Sharing Instructions/Unemployment Insurance
- 6E HRIS Data Analysis for an Employee
- 6F 1-Discrimination Complaint Log  
2-Instructions
- 6G Governor's Executive Order No. 00-03 Public Records Privacy Protection
- 6H Agency's Response to Public Records Privacy Protection
- 6I ESD Data Warehouse Data Dictionary
- 6J 1-Records and Reports: Sample of Local Partner Ordinance on Record Retention  
2-RCW 50.13 Records and Information – Privacy and Confidentiality
- 6K WIA Policy Number 3415, Records: Retention and Public Access
- 6L 1-Revised Code of Washington (RCW) Chapter 40.14 RCW – Preservation and Destruction of Public Records  
2-ESD Policies for Compliance
- 6MESD Policy and Procedure Number 1016 – Employee Conduct
- 6N Equal Opportunity Data for Adjudication Center, GUIDE



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## Documentation

### Attachments for Element Six - Continued

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6O Washington Administrative Code (WAC) 162-12-140 – Pre-employment Inquiries

6P 1-SKIES – Seeker Program – Enrollment Validation

2-SKIES – Assessment, includes Health Instructions, page L131

3-SKIES – Core Services



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## ELEMENT SEVEN

### MONITOR RECIPIENTS FOR COMPLIANCE (29 CFR 37.51 – 37.54)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(ii). The State is required to establish procedures to monitor periodically all aspects of the recipient's compliance with WIA Section 188 and 29 CFR Part 37.*

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**T**he State/ESD EO Officer of the Administrative Services Division is responsible for monitoring the WDCs on a periodic basis in order to assess their compliance with the nondiscrimination and EO provisions of WIA Section 188 and 29 CFR Part 37. The State/ESD EO Officer provide training and technical assistance to the local EO Officers regarding monitoring activities. The State/ESD EO Officer reviews the effectiveness of local tools as part of its monitoring EO compliance of WIA Title I federally funded programs and activities.

The WIA Monitoring Unit within ESD's Employment and Training Division conducts regular on-site monitoring reviews of local WDCs and selected subrecipients to determine compliance with WIA requirements. When Monitoring Unit staff conduct the WIA monitoring visits, they work in conjunction with the State WIA EO Coordinator in reviewing and identifying EO compliance (e.g., posters, facilities). EO issues and findings are included in the Monitoring Unit's exit interview. Copies of the WIA monitoring reports are forwarded to the State/ESD EO Officer if EO issues are identified. The State/ESD EO Officer reviews the reports and determines whether or not follow-up, technical assistance and/or an in-depth EO review is necessary. Each Workforce Development Area is reviewed by the WIA Monitoring Unit at least once a year. The in-depth EO monitoring review is conducted by the State/ESD EO Officer. (Attachments 7B-1 – 7B-8 and 7C-1 – 7C-3) These documents have been updated to ensure compliance with 29 CFR Part 37.

Each local EO Officer monitors the activities of his/her WDC and the activities of its contractors and WorkSource Operations to ensure EO compliance. Each local WDC develops procedures and monitoring tools for monitoring recipients' compliance with the Workforce Investment Act, final rules, federal regulations and state policies. The monitoring and oversight requirements for compliance reviews, together with monitoring instruments, are the methods and processes used to conduct and organize the review, as specified in 29 CFR Part 37. Policies and procedures regarding monitoring and



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oversight requirements for compliance reviews have been disseminated at the state and local level. See Attachment 7B-1.

The Washington State Employment Security Department is the largest one-stop partner and is also a major contractor through the WorkSource Operations Division. As such, it is required to have its own ESD EO Officer and monitoring policies and procedures. The State EO Officer is a staff member of the Administrative Services Division. The State/ESD EO monitoring visits include, but are not limited to: a review of job orders, interviews with staff and customers, a review of EO reports, data analysis, and a check for accessibility and display of posters. Following the monitoring review, the State/ESD EO Officer conducts an exit meeting with the appropriate manager to discuss the findings. Each facility is reviewed at least once every three (3) years or more if warranted by factors such as discrimination complaints or deficient statistical reports. Offices are monitored by on-site reviews (technical assistance visits) or desk reviews. (Attachment 7A) Follow-up monitoring may be scheduled if deficiencies are found or corrective action is needed. The State/ESD EO Officer is responsible for developing a report of each visit. This report is forwarded to the Workforce Development Council EO Officer, the WIA Monitoring Unit and the WorkSource Operations Division. (Attachment 7B-7 and 7B-8)

Initially, the State EO Officer's focus was in the area of policy development, along with training and technical assistance, in the implementation of the EO regulations. The State EO Officer reviewed the EO monitoring reports completed by the WIA Monitoring Unit. These reviews indicated that the WDCs are in compliance with EO requirements. In-depth EO monitoring is now conducted periodically by the State/ESD EO Officer. See Attachment 7A-1.

The WorkSource Offices and/or affiliate sites that have a significant number of farmworkers in their area also conduct quarterly self-monitoring reviews of the services provided to Migrant and Seasonal Farmworkers. The self-monitoring reports are submitted to the State Monitor Advocate for review and analysis. The State Monitor Advocate is located within the Administrative Services Division of ESD. The Monitor Advocate shares and consults with the State/ESD EO Officer to ensure EO compliance.

The Unemployment Insurance Division contracts with a consultant to assess the quality of service provided in the UI Program. This review includes customer satisfaction, whether or not customers believe they received equitable treatment in processing claims, and language issues. The EO and Language Preference Reports are reviewed at least quarterly to identify and investigate any potential issues, make recommendations to division management to resolve these issues, and work with staff to implement and monitor corrective action. The EO Coordinator in the division provides a copy of these statistical reports to the State/ESD EO Officer on a quarterly





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basis. See Element 6. The State/ESD EO Officer conduct in-depth monitoring of TeleCenter and division staff.

### **Monitoring Elements**

All three levels of recipient monitoring and oversight activities utilize the following models and guides. Recipients, as defined in 29 CFR Part 37.4, include state and local Workforce Investment Boards, One-Stop operators, service providers, vendors, and subrecipients, as well as other types of individuals and entities. Recipients are monitored on their compliance regarding:

- **Assurances** (29 CFR 37.20 - 37.22)  
Review training plans, contracts, agreements, and policies and procedures to ensure compliance.
- **EO Officer Designation** (29 CFR 37.23 - 37.28)  
Ensure that EO Officers have been appointed, training is ongoing, assigned EO duties do not constitute a conflict of interest, EO duties are being carried out, and the name of the EO Officer is identified. This list is not inclusive.
- **Notice and Communication** (29 CFR 37.29 - 37.36)  
Ensure that *EO is the Law* posters have been distributed and posted in prominent locations for public viewing and that recruitment, brochures, and other materials include the EO tagline language and a TDD number or provide an equally effective means of communication for individuals with disabilities. Additionally, any written materials (policies, notices, checklists, brochures, etc.) are reviewed to ensure the requirement has been met.
- **Data and Information Collection and Maintenance**  
(29 CFR 37.37 - 37.41)  
Ensure the collection and maintenance of records or data necessary to determine compliance: e.g., memos, EO record-keeping procedures, policy issuances, reports, complaint logs, etc.
- **Universal Access** (29 CFR 37.42)  
In their recruitment efforts, recipients ensure that materials, brochures, and public service announcements are aimed at broadening the pool of those considered for employment or participation in programs and activities to include members of both sexes, various racial/ethnic groups, various age groups, and individuals with disabilities. They also ensure compliance on services provided to persons with limited English proficiency.





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- **Complaint Processing Procedures** (29 CFR 37.70 - 37.89)  
Ensure that the discrimination complaint procedures are adhered to and that complaint logs are maintained.
- **Development of a Monitoring System** (29 CFR 37.62 – 37.69)  
Ensure that monitoring tools and program policies are developed to ensure their programs and activities are operating in a nondiscriminatory way.
- **Compliance with Section 504 of the Rehabilitation Act** (29 CFR 37.57 – 37.9)  
Ensure compliance with the disability-related requirements of WIA Section 188 and Section 504 of the Rehabilitation Act.

### U.S. Department of Labor Region VI 1999 Visit

In the fall of 1999 a team of Department of Labor Region VI Seattle-based staff began conducting readiness assessments of key Workforce Investment Act implementation activities. Region staff met with state-level WIA staff to discuss the status of state-level readiness, and then began conducting site visits of local Workforce Development Areas and One-Stop WorkSource Centers. The emphasis was on learning about key areas such as plan development and the establishment of councils, provision of services, designation of eligible service providers, and establishment of individual training accounts. On a number of visits, state staff accompanied the DOL staff. It gave the local area an opportunity to identify best practices, conduct a walk-through of WorkSource One-Stop Centers, and give insight into the challenges and opportunities of implementing the new law in a short period of time, including EO best practices.

### EO Data

**T**he ESD Labor Market and Economic Analysis Unit assists program staff in collecting and analyzing the EO data by race/ethnicity, sex, age and disability status for programs, employment activity, placements and terminations. This unit also collects and prepares statistical information for all state agencies in the preparation of their affirmative action plans. (Attachment 7D)

### Sanctions

**I**f deficiencies are identified, on-site technical assistance is provided and a corrective action plan may be necessary to ensure that the processes and procedures are in place to take appropriate steps in order to achieve voluntary compliance. The state and local EO Officers may continue to provide technical assistance in this process. After all attempts to provide assistance and correction of deficiencies fail, the imposition of sanctions will be considered. See Element 9.



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## Documentation

### Attachments for Element Seven

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7A State/ESD Monitoring Guide

7A-1- State EO Monitoring Schedule

7B 1-Monitoring and Oversight Requirements for Compliance Reviews, Policy Number 3425 and Supplement A to Policy 3425

2-WIA Monitoring Questionnaire

3-Property Management/Procurement

4-Complaint and Grievance Checklist

5-Personnel, EEO and Non-Discrimination Checklist

6-Monitoring Instrument/File Review Checklist

7-Sample of Monitoring Report from a Local Area

8-Sample of EO Review from a Local Area

7C 1-Sample Monitoring Plans from Two Local Areas

2-Monitoring Review Schedule

3-Monitoring Flowchart

7D Table of Contents: Affirmative Action Information

Affirmative Action Information – Yakima MSA



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## ELEMENT EIGHT

### COMPLAINT PROCESSING PROCEDURES (29 CFR 37.54(d)(1)(vii)) (29 CFR 37.76 – 37.79)

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.76 through 37.79 regarding complaint processing procedures.*

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#### **Background**

Consistent with 29 CFR Part 37.76 through 37.79, ESD and its partners maintain compliance with the WIA requirements regarding the processing of discrimination complaints.

Every recipient under WorkSource Washington adheres to WIA Policy Number 3450 - Equal Opportunity Discrimination Complaint Processing Policy and Procedures, and uses the attached USDOL/CRC Complaint Information Form and Privacy Act Consent Form. Recipients are responsible for developing their own discrimination complaint and/or grievance policies and procedures for matters other than those covered under 29 CFR Part 37. (Attachment 8A)

ESD maintains a separate discrimination complaint procedure for employee complaints, allegations or grievances arising in other departmental programs. The discrimination complaint process under 29 CFR Part 37 for employees is separate from that for clients because each recipient's employees have procedural and other rights guaranteed by laws, collective bargaining agreements, policies, etc., specific to that recipient. See Attachment 8B, ESD Policy and Procedure Number 0013 - Discrimination Complaint Procedures for ESD employees.

#### **Process**

It is the policy of the state to advise WorkSource clients and employees of their right to file a complaint. Any person who believes that s/he has been discriminated against has the right to file a complaint on the basis of race, color, national origin, religion, sex, age, disability, political affiliation or belief; their status as a beneficiary of programs financially assisted by Title I of WIA, or on the basis of citizenship/status as a lawfully admitted immigrant authorized to work in the United States; or his/her



## METHODS OF ADMINISTRATION

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participation in any WIA Title I-financially assisted program or activity. Complaints must be filed within 180 days of the alleged discrimination. Complainants may file with the local WDC EO Officer or directly with the State EO Officer and/or the Director of the Civil Rights Center. If the complainant is at least 16 years old but less than 18 years old, the complainant's parent or legal guardian signs the written complaint.

The complaint process provides for prompt and equitable resolution of complaints and includes the following elements:

- Initial, written notice;
- An acknowledgement of receipt;
- Notice of right to representation;
- Issues raised in the complaint;
- A period of fact-finding that includes alternative dispute resolution (ADR)/mediation; and
- A written Notice of Final Action.

Upon receipt of a complaint, EO Officers are required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the complaint:

- The fact that the complaint has been filed;
- The identity of the complainant(s);
- The identity of individual respondents to the allegations; and
- The identity of any persons(s) who furnished information relative to, or assisting in a complaint investigation.

If the local EO Officer determines that another entity has jurisdiction and it is appropriate to refer a complaint, the EO Officer promptly refers the complaint to that entity, properly informs those with a need to know of this decision, and explains why.

*A separate system is maintained* both locally and at the state level for logging, tracking and reporting on discrimination complaints. This log should contain (1) date complaint was filed, (2) name and address of complainant, (3) ground of complaint, (4) description of complaint, and (5) disposition of complaint.

Recipients are monitored to ensure they are complying with the complaint process.



## METHODS OF ADMINISTRATION

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### Responsibilities

The State/ESD EO Officer has overall responsibility for developing and implementing complaint procedures, and ensures agency and partner staff are provided the training required by these regulations. The State/ESD EO Officer provides oversight, monitoring and technical consultation for the processing of all discrimination complaints regarding WIA Title I services, including provision of the ADR/mediation services required under 29 CFR Part 37.

Local-level WDC EO Officers are responsible for:

- Adopting, publicizing and implementing the state discrimination process in their area, in accordance with these regulations;
- Assisting local WorkSource clients in filing a complaint;
- Providing oversight and monitoring for logging, tracking, reporting and processing of all discrimination complaints filed against any local WorkSource partner or local Workforce Development Area recipient or subrecipient regarding WIA Title I services; and
- Providing local intake services for discrimination complaints to determine if the complaint is covered by 29 CFR Part 37, resolving jurisdictional issues and, if appropriate, routing the complaint to the appropriate WorkSource partner or WDA recipient/subrecipient for processing.

The local EO Officer confers with the State/ESD EO Officer promptly upon receipt of the complaint, prior to determining jurisdiction over the matter.

Local EO Officers may provide training within their respective areas.

### Communication

Information regarding the complaint process is made available to department and partner staff, as well as clients. Posters informing and instructing applicants on complaint procedures are posted throughout the WorkSource Washington System to recipients, subrecipients, affiliate and co-location sites. During the initial applicant intake interview, an explanation of the full range of services available, including the complaint system, is provided to applicants. Applicants also receive a handout or brochure that explains department and partner services and the WIA Title I complaint procedure. This handout has been translated into Spanish; other languages are being considered where there are major LEP groups within the state. The handout is accessible to clients needing other formats or additional assistance upon request. All ESD staff members are provided with a copy of the complaint procedure.



## METHODS OF ADMINISTRATION

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ESD's WorkSource web site provides a link to a copy of the EO Notice in English and Spanish. The site will be revised to include the list of local and state EO Officers, the WIA discrimination complaint procedures and complaint forms. See Elements 2 and 7.



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## Documentation

### Attachments for Element Eight

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8A Revised WIA Policy Number 3450 - EO Discrimination Complaint Processing Policy and Procedure and attached USDOL/CRC Complaint Information Form and Privacy Act Consent Form

8B Revised ESD Policy and Procedure Number 0013 - Discrimination Complaint Procedures (for employees), including Complaint Form



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## ELEMENT NINE

### CORRECTIVE ACTIONS/SANCTIONS (29 CFR 37.54(d)(2)(C)(vii))

*Washington State addresses how it and its recipients are complying and will continue to comply with the requirements of 29 CFR 37.54(d)(2)(C)(vii).*

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#### **Background**

ESD will seek corrective action from a WIA recipient if a violation is identified in the following circumstances:

- The State/ESD EO Officer's periodic monitoring identifies a technical deficiency, a failure to follow through on written assurances, a barrier to universal access to or disparate impact in programs or services.
- The assessment of the circumstances surrounding a complaint and/or grievance, and/or the use of desk audits, on-site reviews, investigation or other fact-finding tools in conjunction with the assessment process, reveals barriers to equal opportunity or access to WIA, ES or UI services.
- A WIA recipient refuses to implement voluntary corrective action, submit requested data or documentation, or provide access to premises or records during a compliance review.

The Employment Security Department has notified its recipients of their responsibility through issuance of WIA Title I-B Policy Number 3445 – Equal Opportunity and Nondiscrimination. (Attachment 9A) Local Workforce Development Areas are required to establish policy and procedures for obtaining prompt corrective action or, as required, applications of sanctions when a training provider or other recipient is not in compliance with the nondiscrimination and EO provisions of WIA.

When the need for corrective action is identified by the local EO Officer, s/he is expected to recommend voluntary corrective action(s) to the WDC and a reasonable minimum timeframe to completely correct each situation for which corrective action is recommended. S/he notifies the State/ESD EO Officer of the situation(s) discovered, the corrective action(s) being implemented, and the timeframe(s) for completion of each.





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### **Voluntary Compliance**

If the need for corrective action is identified by the State/ESD EO Officer, s/he notifies the recipient in writing of the violation(s), along with recommendations for corrective action.

The WDC is given the opportunity to initiate voluntary corrective action. The State/ESD EO Officer provides technical assistance and consultation on the specific action(s) to correct the violation(s). The WDC and the State/ESD EO Officer enter into a conciliation agreement, specifying the commitment the office will undertake to correct the violation(s), behavior and/or practice. The WDC reports back to the State/ESD EO Officer upon completion of the corrective action and at any intermediary times specified in the conciliation agreement. The State/ESD EO Officer or designee conducts follow-up visits, monitoring, etc., if required, to ensure that the violation(s) does/do not recur.

Corrective action should be completed within 45 days from the date of initial notification of the violation.

### **Final Determination**

After all efforts for voluntary compliance have been exhausted, the State/ESD EO Officer notifies the ESD Commissioner in writing. The final determination specifies the following:

- Efforts made to achieve voluntary compliance, along with the areas of disagreement (if known);
- The apparent violation(s) and pertinent nondiscrimination EO provision(s) of 29 CFR Part 37; and
- The corrective action the recipient must take to address the violation(s).

The ESD Commissioner may secure voluntary compliance with the recipient through a written assurance and/or conciliation agreement. The ESD Commissioner considers sanctions only if the recipient does not agree to take voluntary corrective action.

Sanctions that may be imposed include, but are not limited to:

- Termination of future funding;
- Disallowance of selected costs;
- Restriction from bidding on competitive or discretionary funds; and
- Reduction in funding.



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## **Documentation**

### **Attachments for Element Nine**

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9A WIA Title I-B Policy Number 3445 – Equal Opportunity and Nondiscrimination



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